United States Court of Appeals

for the Second Circuit

APPELLEE'S APPENDIX

77-2131

United States Court of Appeals

FOR THE SECOND CIRCUIT

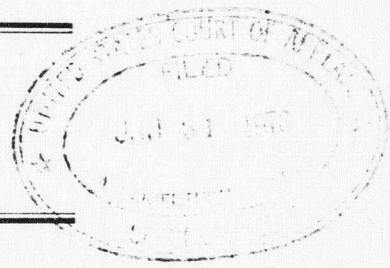
Docket No. 77-2131

JAMES HEIMERLE,
Petitioner-Appellant,

—v.—

UNITED STATES OF AMERICA,
Respondent-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



APPENDIX OF RESPONDENT-APPELLEE UNITED STATES OF AMERICA

ROBERT B. FISKE, JR.,
United States Attorney for the Southern District of New York, Attorney for the United States of America.

PAGINATION AS IN ORIGINAL COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	
- v -	NOTICE OF READINESS FOR TRIAL
JAMES CALISE JAMES HEIMERLE	72 Cr. 1331
Defendant(s)	

S I R S:

PLEASE TAKE NOTICE that the United States will be ready for trial in this case as soon as the matter can be reached by the Court on or after March 26, 1973 subject to receiving ' notice of the actual date for trial.

Dated: New York, New York
March 21, 1973

Yours,

WHITNEY NORTH SEYMOUR, JR.
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

By: Gerard J. Hinckley
Special Attorney
Department of Justice

TO: HONORABLE Charles L. Brieant, Jr.
United States District Judge

cc: Fontana and Gealy, Esqs.
32 Court Street
Brooklyn, New York 11201

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Writ issued 9/24/73

UNITED STATES OF AMERICA :

- v - :

JAMES HEIMERLE, :

Defendant :

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72 Cr. 1331 CLB

AFFIDAVIT

JEROME L.MERIN, being duly sworn deposes and says:

I am a Special Attorney, United States Department of Justice in the Southern District of New York and I have been assigned the prosecution of the cases involving the above named defendant. JAMES HEIMERLE has been indicted by the Grand Jury for the Southern District of New York under Indictment Number 72 Cr. 1331 for Conspiracy and Mail Fraud in violation of Title 18, United States Code, Sections 371 and 1341. The above indictment was filed in the United States District Court for the Southern District of New York on December 6, 1972. The defendant is now confined to Greenhaven Correction Facility, Stormville, New York, after a conviction for Forgery in the Second Degree.

WHEREFORE, your deponent respectfully prays that a writ of habeas corpus ad prosequendum issue, directing the Superintendant of the Greenhaven Correction Facility, Stormville, New York, and the United States Marshal for the Southern District of New York to produce the above named

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defendant in the United States District Court for the Southern Distrct of New York, United States Courthouse Foley Square, New York, New York on September 24, 1973, and after the said defendant has been discharged or convicted on said indictment to return him to the Greenhaven Correction Facility,

Special Attorney
Department of Justice

Sworn to me before this
17 day of September 1973

J. L[illegible]
Notary Public
Qualified in [illegible]
Commission Expires [illegible]

THE PRESIDENT OF THE UNITED STATES OF AMERICA A 4

TO: Warden
Greenhaven Correctional Facility 73 C 1331
Stormville, New York

and United States Marshal
Southern District of New York

and United States Marshal for the
Northern District of New York

GREETING:

YOU ARE HEREBY COMMANDED to have the body of JAMES HEIMERLE now detained in the Greenhaven Correctional Facility, Stormville, New York, under your custody as it is said, under safe and secure conduct before the Judges of our District Court within and for the Southern District of New York, at the United States Court House, Foley Square, New York, New York, on Monday, September 24, 1973 at 10:30 o'clock in the forenoon, there to appear and stand trial or such proceeding as may be necessary to facilitate the trial of defendant and immediately after the said proceeding, said JAMES HEIMERLE shall have been discharged or convicted and sentenced on said indictment, that you return him to the said Greenhaven Correctional Facility, Stormville, New York, under safe and secure conduct, and have you then and there this writ.

FILED
U.S. DISTRICT COURT
NOV 21 12 30 PM '73
S.D. OF N.Y.

WITNESS the Honorable DAVID N. EDELSTEIN, Chief Judge of the United States District Court for the Southern District of New York, at the United States Court House, Foley Square, New York, New York this 18TH day of SEPTEMBER 1973.

Raymond F. Burghardt
Clerk, United States District Court
Southern District of New York

The within writ is hereby allowed.

United States District Judge

U.S. MARSHAL'S COPY
ORIGINAL
(Crim
(Reg. No. 71-9/18/73

Sept 21-1973

MARSHALS RETURN

by certify and return that I received this writ on the 18th day of September 1973 ecuted same on the 21st day of September 1973 by serving a certified copy on the n of Greenhaven Prison at Stormville, New York and at the same time took custody e above named JAMES HEIMERLE and transported him to the Federal Detention Hdqts, 27 West St., New York, New York on the same day.

THOMAS E FERRANDINA
U S MARSHAL
NY/S
BY: James Barfield
DEPUTY

9/21/73
Thomas F. Grisa

I hereby certify and return that I furthur executed this writ by taking custody of the within named James Heimerle at the Office of the U.S. Marshal U.S. Court House at Foley Square, New York City, New York on the 27th Day of Sept. 1973 and returning him to the custody of the Warden of Greenhaven Correctional Facility at Stormville, New York on this same day.

Thomas E. Ferrandina
U.S. Marshal, SDNY

by: Miro O. Kaplan
Miro O. Kaplan, Marshal, SDNY
Deputy

SATISFIED
Thomas F. Grisa

D 5

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JLM:
72-4059

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Writ ss pet 3/8/74

UNITED STATES OF AMERICA : AFFIDAVIT

- v - :

JAMES HEIMERLE : 72 Cr. 1331

:

:

:

Defendant :

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
MAR 5 12 33 PM '74

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

Jerome L. Merin being duly sworn, deposes and says that he is a Special Attorney for the United States Department of Justice assigned to the Southern District of New York; that he has charge of the prosecution of the above named case; that the defendant JAMES HEIMERLE has been indicted by the Grand Jury for the Southern District of New York for the ~~unlawful~~ mail fruad

in violation of Title 18. U.S.C., Section 1341

The indictment was filed in the United States District Court for the Southern District of New York on

. The defendant is now confined in Greenhaven Correctional Facility, Greenhaven, New York, on a charge of ~~violating~~ Forgery

and his confinement will terminate not within the near future.

USA-33s-106A - p.2 - AFF. FOR W/H/C AD PROS.
Ed. 4/23/58

That the case is now on the calendar of the United States District Court for the Southern District of New York,

It is necessary that the defendant appear and confer with counsel in order to enter prepare for trial.

WHEREFORE, your deponent respectfully prays that a writ of habeas corpus ad prosequendum issue, directing the Warden of Greenhaven Correctional Facility

and the United States Marshal for the Southern District of New York to produce the above named defendant in the United States District Court for the Southern District of New York, United States Court House, Foley Square, New York, N. Y., on March 8, 1974

and after the said defendant has been discharged or convicted and sentenced on said indictment, to return him to the Greenhaven Correctional Facility.

Jerome L. Merin

Jerome L. Merin
Special Attorney
Joint Strike Force for the
Southern District of
New York

Sworn to before me this

4 day of March, 1974

J. LAWRENCE SILVERMAN
Notary Public, State of New York
No. 31-4570555
Qualified in Queens County
Commission Expires March 30, 1975

ILM:
2-4059

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RECEIVED
U.S. MARSHAL
1974 MAR 5 PM 12:54

THE PRESIDENT OF THE UNITED STATES OF AMERICA

TO: Superintendent, Greenhaven Correctional Facility
Greenhaven, New York

and United States Marshal
Southern District of New York,

U.S. DISTRICT COURT
FILED
APR 25 1974
S. D. OF N.Y.

GREETING: 72 Cr. 1331

YOU ARE HEREBY COMMANDED to have the body of

JAMES HEIMERLE now detained in the

under your custody as it is said, under safe and secure conduct before the Judges of our District Court within and for the Southern District of New York, at the United States Court House, Foley Square, New York, New York, on March 25th 1974 at 9:30 o'clock in the forenoon, there to appear and answer charges contained in indictment number 72 Cr. 1331 and immediately after the said JAMES HEIMERLE shall have been discharged or convicted and sentenced on said indictment, that you return him to the said Greenhaven Correction Facility under safe and secure conduct, and have you then and there this writ.

WITNESS the Honorable Sylvester J. Ryan Judge of the United States District Court for the Southern District of New York, at the United States Court House, Foley Square, New York, N.Y., this 5th day of March, 1974

Clerk, United States District Court
Southern District of New York

The within writ is hereby allowed.

United States District Judge

A TRUE COPY
RAYMOND F. BURGHARDT, CLERK
By _____ Deputy Clerk

GPO : 1972 O - 467-837

3/22/74 I hereby certify that I am a particularly appointed and transported the within named Prisoner James Heimerle. by serving a copy of this writ to, Warden of Greenhaven Correction facility. and lodged a copy of the writ with the warden of F.D.H New York City this 22nd day of March 1974

Thomas E. Ferraiolo
U.S. marshal

By Michael C Nail
Deputy U.S.M.

APR 5 1974

Writ endorsed to Grand Jury
Filed APR 5 1974

U. S. D. J.

APR 5 1974

It satisfied

Charles H. Tenney
U. S. D. J.

4/11/74. I hereby certify & return that I received the writ on 4/11/74 & on 4/11/74 took custody of the within named James Heimerle & transported him to the Greenhaven Correctional Facility & lodged him there on 4/11/74

THOMAS E. FERRAIOLO
U.S. MARSHAL-SDNY

Deputy - Jerome
5 DAY

James Heimerle

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Brodsky

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
U.S DISTRICT COURT
JUL 8 4 47 PM 74
S.D. OF N.Y.

UNITED STATES OF AMERICA :

- v - :

JAMES HEIMERLE, :

Defendant :

INDICTMENT

72 Cr. 1331

Ret. 7/22/74

AFFIDAVIT

JEROME L. MERIN, being duly sworn, deposes and says:

1. I am a Special Attorney, United States Department of Justice in the Southern District of New York and I have been assigned the prosecution of the cases involving the above-named defendant. JAMES HEIMERLE has been charged under Indictment No. 72 Cr. 1331 with Conspiracy and mail fraud in violation of Title 18, United States Code, Sections 371 and 1341, in connection with the sale of stolen airline tickets. The above indictment was filed in the United States District Court for the Southern District of New York on December 6, 1972. The defendant is now confined to Greenhaven Correction Facility, Greenhaven, New York, after a conviction for Forgery in the Second Degree.

WHEREFORE, your deponent respectfully prays that a writ of habeas corpus ad prosequendum issue, directing the Superintendant of the Greenhaven Correction Facility, Greenhaven, New York, and the United States Marshal for the Southern District of New York to produce the above named defendant in the United States District Court for the Southern District of New York, United States Courthouse, Foley Square, New York, New York on July 22, 1974, and after the said defendant has been arraigned, said indictment to return him to the Greenhaven Correction Facility, Greenhaven, New York.

Jerome L. Merin
Special Attorney
United States Department of Justice

Sworn to before me this

5 day of July

JLM:lm

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THE PRESIDENT OF THE UNITED STATES OF AMERICA

TO: Superintendent, Greenhaven Correction Facility
Greenhaven, New York

and United States Marshal
Southern District of New York,

GREETING: 72 Cr. 1331 (CLB)

YOU ARE HEREBY COMMANDED to have the body of JAMES HEIMERLE now detained in the Greenhaven Correction Facility, Greenhaven, New York under your custody as it is said, under safe and secure conduct before the Judges of our District Court within and for the Southern District of New York at the United States Courthouse, Foley Square, New York, New York, on July 22, 1974 at 10:30 o'clock in the forenoon, there to appear and answer charges contained in indictment number 72 Cr. 1331 and immediately after the said JAMES HEIMERLE shall have been discharged or convicted and sentenced on said indictment, that you return him to the said Greenhaven Correction Facility, Greenhaven, New York, under safe and secure conduct, and have you then and there this writ.

1974 JUL -8 PM 4:39 SDNY

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
Jul 26 2 54 PM '74

WITNESS the Honorable David Edelstein, Chief Judge of the United States District Court for the Southern District of New York, at the United States Courthouse, Foley Square, New York, New York, this 8th day of July, 1974.

Raymond F. Burghardt
Clerk, United States District Court
Southern District of New York

The within writ is hereby allowed.

Robert L. Ward
United States District Judge

...day of July 197... FDH

Miro J Kabat

U.S. [illegible], SDNY

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AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

...duly sworn

Marshal's return.

Southern District of New York ss.

July 16, 1974

I hereby certify and return that I personally executed this writ by serving a true copy on the Superintendent of Allenwood Federal Penitentiary, Pennsylvania, and by taking custody of the within named Thomas Tamantini and lodging him at the Federal Detention Headquarters, 427 West 47th, N.Y.C. this date.

Thomas E Tamantini
U.S. Marshal S.D.N.Y.

By Deputy John V. Dixon.

22 JUL 1974

July 23, 1974 2PM

Charles L. Brieant Jr.
U. S. D. J.

23 JUL 1974

Satisfied

Charles L. Brieant Jr.
U. S. D. J.

JM

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